



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 203, 205, 207, 209, 211, 212, 215, 216, 217, 218, 222, 223, 225, 228, 231, 232, 233, 239, 242, 245, 246, 251, and 252

[Docket DARS-2021-0001]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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SUPPLEMENTARY INFORMATION:

This final rule makes editorial changes to 48 CFR parts 203, 205, 207, 209, 211, 212, 215, 216, 217, 218, 222, 223, 225, 228, 231, 232, 233, 239, 242, 245, 246, 251, and 252 to amend the DFARS.

List of Subjects in 48 CFR Parts 203, 205, 207, 209, 211, 212, 215, 216, 217, 218, 222, 223, 225, 228, 231, 232, 233, 239, 242, 245, 246, 251, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 203, 205, 207, 209, 211, 212, 215, 216, 217, 218, 222, 223, 225, 228, 231, 232, 233, 239, 242, 245, 246, 251, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 203, 205, 207, 209, 211, 212, 215, 216, 217, 218, 222, 223, 225, 228, 231, 232, 233, 239, 242, 245, 246, 251, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

203.806 [Amended]

2. Amend section 203.806 by removing “PGI 203.8(a)” and adding “PGI 203.806(a)” in its place.

PART 205—PUBLICIZING CONTRACT ACTIONS

3. Add a 205.205 section heading to subpart 205.2 to read as follows:

205.205 Special situations.

PART 207—ACQUISITION PLANNING

Subpart 207.4—Equipment Acquisition

4. Revise the heading for subpart 207.4 to read as set forth

above.

PART 209—CONTRACTOR QUALIFICATIONS

5. Revise the heading for section 209.409 to read as follows:

209.409 Contract clause.

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PART 211—DESCRIBING AGENCY NEEDS

211.105 [Removed]

6. Remove section 211.105.

Subpart 211.70 [Removed]

7. Remove subpart 211.70, consisting of reserved section 211.7001.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items and Commercially Available Off-the-Shelf Items

8. Revise the heading for subpart 212.5 to read as set forth above.

212.570 [Redesignated as 212.505]

9. Redesignate section 212.570 as 212.505 and revise the heading to read as follows:

212.505 Applicability of certain laws to contracts for the acquisition of COTS items.

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PART 215—CONTRACTING BY NEGOTIATION

Subpart 215.1—Source Selection Processes and Techniques

10. Add subpart 215.1 to consist of existing sections 215.101

through 215.101-70 under the heading set forth above.

PART 216—TYPES OF CONTRACTS

11. Revise the heading for section 216.402-2 to read as follows:

216.402-2 Performance incentives.

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PART 217—SPECIAL CONTRACTING METHODS

Subpart 217.78—Reverse Auctions

12. Revise the heading for subpart 217.78 to read as set forth above.

PART 218—EMERGENCY ACQUISITIONS

13. Revise the heading for section 218.203 to read as follows:

218.203 Emergency declaration or major disaster declaration.

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PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

14. Revise the heading for section 222.403 to read as follows:

222.403 Statutory, Executive order, and regulatory requirements.

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222.403-4 [Redesignated as 222.403-70]

15. Redesignate section 222.403-4 as 222.403-70.

Subpart 222.6—Contracts for Materials, Supplies, Articles, and Equipment

16. Revise the heading for subpart 222.6 to read as set forth

above.

**PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE
ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE
WORKPLACE**

Subpart 223.4—Use of Recovered Materials and Biobased Products

17. Revise the heading for subpart 223.4 to read as set forth
above.

Subpart 223.8—Ozone-Depleting Substances and Greenhouse Gases

18. Revise the heading for subpart 223.8 to read as set forth
above.

223.803 [Redesignated as 223.802]

19. Redesignate section 223.803 as 223.802.

PART 225—FOREIGN ACQUISITION

Subpart 225.1—Buy American—Supplies

20. Revise the heading for subpart 225.1 to read as set forth
above.

Subpart 225.2—Buy American—Construction Materials

21. Revise the heading for subpart 225.2 to read as set forth
above.

22. Add a heading for section 225.701 to read as follows:

**225.701 Restrictions administered by the Department of the
Treasury on acquisitions of supplies or services from prohibited
sources.**

PART 228—BONDS AND INSURANCE

Subpart 228.1—Bonds and Other Financial Protections

23. Revise the heading for subpart 228.1 to read as set forth

above.

24. Revise the heading for section 228.102 to read as follows:

228.102 Performance and payment bonds and alternative payment protections for construction contracts.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

25. Revise the heading for section 231.205-22 to read as follows:

231.205-22 Lobbying and political activity costs.

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PART 232—CONTRACT FINANCING

232.705 and 232.705-70 [Redesignated as 232.706 and 232.706-70]

26. Redesignate sections 232.705 and 232.705-70 as sections 232.706 and 232.706-70, respectively.

27. Revise the heading for section 232.806 to read as follows:

232.806 Contract clauses.

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PART 233—PROTESTS, DISPUTES, AND APPEALS

28. Revise the heading for section 233.215 to read as follows:

233.215 Contract clauses.

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PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

239.001 [Redesignated]

29. Redesignate section 239.001 by removing its designation

in subpart 239.1 and placing it immediately before subpart 239.1.

239.7602-1 [Amended]

30. Amend section 239.7602-1 in paragraph (b) (1) by removing "http://iase.disa.mil/cloud_security/Pages/index.aspx" and adding "<https://public.cyber.mil/dccs/>" in its place.

31. Amend section 239.7602-2 by adding a sentence at the end of paragraph (b) to read as follows:

239.7602-2 Required storage of data within the United States or outlying areas.

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(b) * * * See PGI 239.7602-2 for additional guidance.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

32. Revise the heading for section 242.1204 to read as follows:

242.1204 Applicability of novation agreements.

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PART 245—GOVERNMENT PROPERTY

33. Revise the heading for section 245.604 to read as follows:

245.604 Sale of surplus personal property.

245.604-3 [Redesignated as 245.604-1]

34. Redesignate section 245.604-3 as 245.604-1 and revise it to read as follows:

245.604-1 Sales procedures.

(1) *Best value sales approach.* Plant clearance officers shall determine a best value sales approach (formal or informal

sales), to include due consideration for costs, risks, and benefits, e.g., potential sales proceeds.

(2) *Informal bid procedures.* The plant clearance officer may direct the contractor to issue informal invitations for bid (orally, telephonically, or by other informal media), provided—

- (i) Maximum practical competition is obtained;
- (ii) Sources solicited are recorded; and
- (iii) Informal bids are confirmed in writing.

(3) *Sale approval and award.* Plant clearance officers shall—

(i) Evaluate bids to establish that the sale price is fair and reasonable, taking into consideration—

- (A) Knowledge or tests of the market;
- (B) Current published prices for the property;
- (C) The nature, condition, quantity, and location of the property; and
- (D) Past sale history for like or similar items;

(ii) Approve award to the responsible bidder whose bid is most advantageous to the Government. The plant clearance officer shall not approve award to any bidder who is an ineligible transferee, as defined in 252.245-7004, Reporting, Reutilization, and Disposal; and

(iii) Notify the contractor of the bidder to whom an award will be made within 5 working days from receipt of bids.

(4) *Noncompetitive sales.*

(i) Noncompetitive sales include purchases or retention at less than cost by the contractor. Noncompetitive sales may be made when—

(A) The plant clearance officer determines that this method is essential to expeditious plant clearance; and

(B) The Government's interests are adequately protected.

(ii) Noncompetitive sales shall be at fair and reasonable prices, not less than those reasonably expected under competitive sales.

(iii) Conditions justifying noncompetitive sales are—

(A) No acceptable bids are received under competitive sale;

(B) Anticipated sales proceeds do not warrant competitive sale;

(C) Specialized nature of the property would not create bidder interest;

(D) Removal of the property would reduce its value or result in disproportionate handling expenses; or

(E) Such action is essential to the Government's interests.

(5) Plant clearance officers shall consider any special disposal requirements such as demilitarization or trade security control requirements in accordance with DoDM 4160.28-M, Defense Demilitarization Manual, and DoDI 2030.08, Implementation of Trade Security Controls, respectively. See PGI 245.6.

PART 246—QUALITY ASSURANCE

246.701 [Removed]

35. Remove the first instance of section 246.701 (without heading and text).

36. Add section 246.702 to read as follows:

246.702 General.

246.701 [Redesignated as 246.702-70]

37. Redesignate the second instance of section 246.701 (headed "Definitions") as 246.702-70.

38. Revise the heading for section 246.710 to read as follows:

246.710 Contract clauses.

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PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 251.2—Contractor Use of Interagency Fleet Management System (IFMS)

39. Revise the heading for subpart 251.2 to read as set forth above.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.102 [Redesignated as 252.103]

40. Redesignate section 252.102 as 252.103.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.232-7007 [Amended]

41. Amend section 252.232-7007 in the introductory text by removing "232.705-70" and adding "232.706-70" in its place.